

Message Text

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ACTION EB-11

INFO OCT-01 IO-14 ISO-00 AF-10 ARA-16 EA-11 EUR-25 NEA-14

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E.O. 11652: N/A

TAGS: AORG TGEN ETRD UNCTAD

SUBJ: UNCTAD-TDB AGENDA ITEM 8(E)-TRANSFER OF TECHNOLOGY

REF: STATE 4624, GENEVA 5401, 5369, 5529

1. US DEL CALLED INFORMAL MEETING AUGUST 29 OF
DELEGATES FROM JAPAN, SWITZELAND, FRG, CANADA, ITALY
AND FRANCE IN ATTEMPT TO ENLIST SUPPORT FOR NON-PARTICIPATION
IN UNCTAD EXPERTS GROUP ON PATENTS. MOST, WHILE EXPRESSING
INTEREST IN US PROPOSAL (DEPTEL 4624), WERE UNABLE TO
RESPOND IMMEDIATELY LACKING CLEAR INSTRUCTIONS. FRG
INDICATED OPPOSITIONN TO REOPENING MATTER IN TDB SINCE
FRG BELIEVED THAT STRONG STAND TAKEN IN IGG COULD ONLY BE
WEAKENED BY ANY CONSENSUS IN TDB AND THUS WOULD WEAKEN THE
POSITION OF THE OPPONENTS OF THE IGG RESOLUTION IN SUBSEQUENT
DISCUSSIONS. FRG INDICATED THAT IT INTENDED TO PARTICIPATE
TO CONTINUE TO MAKE CLEAR ITS OPPOSITION TO UNCTAD
USURPING THE ROLE OF WIPO. JAPAN INDICATED IT WOULD
CONSIDER NOT PARTICIPATING ONLY IF ALL SEVEN OTHER
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STATES ALSO DECIDED NOT TO PARTICIPATE. UK, FRANCE,

ITALY, CANADA, HAD NO INSTRUCTIONS AND, WHILE AGREEING TO REFER THE MATTER TO THEIR CAPITALS, INDICATED THAT THEY WERE NOT SANGUINE IN RECEIVING INSTRUCTIONS WHICH WOULD PERMIT THEM TO JOIN THE US IN REFUSING TO PARTICIPATE. THE SWISS POSITION WAS THE CLOSEST TO THE US ALTHOUGH THEIR DELEGATE STATED HIS GOVERNMENT WOULD HAVE BEEN MUCH MORE WILLING TO CONSIDER NON-PARTICIPATION IN THE EXPERT GROUP ON THE CODE OF CONDUCT. OUTCOME OF DISCUSSION WAS DECISION TO TAKE TO GROUP B AS A WHOLE QUESTION OF WHETHER THERE WAS SUFFICIENT SENTIMENT IN GROUP TO REOPEN QUESTION ON SUBSTANTIVE GROUNDS BEFORE PURSUING NON-PARTICIPATION QUESTION FURTHER.

2. GROUP B DISCUSSION NEXT MORNING CLEARLY REVEALED NO SENTIMENT TO REOPEN ISSUE ON EITHER IGG RESOLUTIONS ESTABLISHING EXPERT GROUPS. NETHERLANDS, BELGIUM, FRG, AUSTRALIA, N.Z, SWITZERLAND, MALTA, JAPAN, AND ITALY ALL INDICATED THAT THERE SEEMED NO CHANCE OF EITHER OBTAINING GROUP B CONSENSUS ON DESIRED IMPROVEMENTS OR OF OBTAINING GP77 AGREEMENT TO REOPEN ISSUE. SINCE FINAL DISCUSSION OF AGENDA ITEM WAS SCHEDULED FOR AFTERNOON AUGUST 30, GROUP B DECIDED CONCLUDE CONSIDERATION OF ISSUES BY ADOPTING RESOLUTION ON ESTABLISHMENT OF THE COMMITTEE OF TRANSFER OF TECHNOLOGY AND BY NOTING REPORT OF THE IGG WITHOUT DEBATE. HOWEVER, IT WAS AGREED THAT GROUP B WOULD ENTER A UNANIMOUS RESERVATION UPON THE CONSIDERATION OF THE FINANCING IMPLICATIONS OF THE IGG'S ACTIONS IN ORDER TO SEEK "FURTHER CLARIFICATION OF THE QUESTION OF THE POWERS OF SUBSIDIARY BODIES TO PROLIFERATE OTHER SUBSIDIARY BODIES" WITH A VIEW TOWARDS REOPENING THE LEGAL-PROCEDURAL QUESTIONS IN THE DEBATES OF THE UNGA FIFTH COMMITTEE.

3. GROUP B AND GROUP OF 77 WERE UNABLE TO REACH AGREEMENT ON ANY INTERPRETIVE STATEMENT CLARIFYING THE MEANING OF THE GENERAL TERMINOLOGY IN THE ADOPTED TERMS OF REFERENCE FOR THE COMMITTEE. PRINCIPAL DISAGREEMENT CENTERED ON CLARIFICATION OF THE PHRASE LIMITED OFFICIAL USE

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"DIRECTLY RELATED MATTERS" IN OPERATIVE PARA 1 OF THE TERMS. GROUP 77 ACCEPTED B'S PHRASE THAT TERMINOLOGY REFERRED TO "ONLY THOSE PARTICULAR ASPECTS OF ISSUES WITHIN UNCTAD'S COMPETENCE WHICH HAVE CLEARLY IDENTIFIABLE IMPLICATIONS FOR THE TRANSFER OF TECHNOLOGY" BUT INSISTED UPON THE ADDITION OF THE WORDS "SUCH AS RESTRICTIVE BUSINESS PRACTICES, FOREIGN INVESTMENTS AND ACTIVITIES OF THE TRANSNATIONAL CORPORATIONS". IN

VIEW OF IMPASSE, IT WAS DECIDED THAT NO INTERPRETIVE STATEMENT WOULD BE MADE BY ANYONE, AN AGREEMENT WHICH HELD IN THE FINAL CONSIDERATION OF THE SESSIONAL COMMITTEE.

4. SECRETARIAT INTRODUCED DOCUMENT (SC I/L.3) ON PROVISIONAL AGENDA OF NEW COMMITTEE ON TRANSFER OF TECHNOLOGY INDICATING NECESSARY ADDITIONS TO IGG DECISION ON PROVISIONAL AGENDA AS RESULT OF BORD'S PENDING ACTION IN THE ESTABLISHMENT OF THE MAIN COMMITTEE. GROUP B ATTEMPTED TO OBTAIN GROUP 77 AGREEMENT TO MODIFY DRAFT PROVISIONAL AGENDA TO REFLECT OP. PARA 2 OF TERMS OF REFERENCE RE PRIORITIES, BUT GROUP 77 SPOKESMAN WAS UNABLE TO AGREE. ADOPTION OF THE PROVISIONAL AGENDA HAS BEEN LEFT OPEN FOR A LATER DATE TO PERMIT FURTHER CONSULTATIONS BETWEEN THE TWO GROUPS.

5. COMMENT: U.S. DEL DOES NOT SEE THAT THERE IS ANY FURTHER CHANCE OF REOPENING THE QUESTION OF THE TERMS OF REFERENCE OF THE EXPERT GROUP ON PATENTS AT THIS SESSION OF THE BOARD. THE PROBLEM OF PLACING AN ITEM ON THE AGENDA OF THE FIRST MEETING OF THE COMMITTEE ON THE TRANSFER OF TECHNOLOGY IS ON THE WAY TO SOLUTION BY AN AGREED PROCEDURE THAT THE GROUP B WILL MAKE A STATEMENT THAT IT UNDERSTANDS THAT PRIORITIES WILL BE CONSIDERED UNDER ITEM 4 "MAIN ISSUES" TO WHICH THE GROUP OF 77 WILL CONCUR. DALE

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